

Senate Bill No. 620

CHAPTER 638

An act to amend Sections 60290, 60336, and 60339 of, and to add and repeal Section 60233 of, the Water Code, relating to water.

[Approved by Governor October 8, 2013. Filed with
Secretary of State October 8, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 620, Wright. Water replenishment districts.

(1) Existing law, the Water Replenishment District Act, provides for the formation of water replenishment districts and grants authority to a water replenishment district relating to the replenishment, protection, and preservation of groundwater supplies within that district. The act generally authorizes a water replenishment district to establish an annual reserve fund in an amount not to exceed \$10,000,000 commencing with the 2000–01 fiscal year, and thereafter, as that amount is adjusted annually. The act requires a minimum of 80% of the reserve fund to be expended for water purchases.

This bill, until the 2019–20 fiscal year, would eliminate the requirement that a minimum of 80% of the reserve fund be expended for water purchases. The bill would declare the intent of the Legislature to provide the Water Replenishment District of Southern California with the ability to determine the appropriate use of moneys held in its annual reserve fund, and that public records shall help the Legislature determine whether the flexibility provided by this act should be permanently extended beyond the 2019–20 fiscal year.

This bill would require a water replenishment district to establish a budget advisory committee, as prescribed, for purposes of reviewing a replenishment assessment and a district's annual operating budget, as specified, thereby imposing a state-mandated local program. The bill would require a water replenishment district to consult with the budget advisory committee, as specified, and to maintain records regarding the recommendations of the budget advisory committee and the final decisions made by the board of the water replenishment district with regard to those recommendations. These provisions would become inoperative on June 30, 2019, and would be repealed on January 1, 2020.

(2) The act provides that any operator of a water-producing facility that knowingly fails to register his or her water-producing facility or knowingly fails to file a groundwater production statement, or any other reports or statements required, as specified, in addition to interest due, as prescribed, is liable to the district for a penalty of \$150.

This bill would provide that the operator is liable to the district for a penalty of \$1,000. The bill would delay the application of the increase in

the amount of that penalty to an operator of a water-producing facility that is a party to certain litigation involving a water replenishment district until after the litigation is settled or all legal remedies have been exhausted.

(3) The act authorizes the superior court of the county in which the major portion of the district lies to issue a temporary restraining order upon the filing by the district with the court of a verified petition or complaint setting forth that the defendant is the operator of a water-producing facility that has not been registered with the district or that the defendant is delinquent in the payment of a replenishment assessment, as specified.

This bill would require the court to direct that the district or operator of a water-producing facility be awarded the reasonable attorney's fees and costs relating to a motion seeking injunctive relief under these provisions whenever the district or operator of a water-producing facility prevails on a petition or complaint. The bill would also delay the application of those provisions to an operator of a water-producing facility that is a party to the above-described litigation, as specified above.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 60233 is added to the Water Code, to read:

60233. (a) A district shall establish a budget advisory committee for purposes of reviewing a replenishment assessment, if any is proposed, and a district's annual operating budget, including reserve funds maintained by the district.

(b) (1) The committee shall consist of seven members who shall serve a two-year term and who shall be elected from among representatives of producers who are owners or operators of groundwater producing facilities who are subject to the replenishment assessment pursuant to Section 60317. The membership of the committee shall be composed as follows:

(A) Two members shall be elected by vote of entities with an annual pumping allocation of less than 5,000 acre-feet.

(B) Two members shall be elected by vote of entities with an annual pumping allocation of at least 5,000 acre-feet but less than 10,000 acre-feet.

(C) Three members shall be elected by vote of entities with an annual pumping allocation of 10,000 acre-feet or greater.

(2) On or before the first Tuesday in January on a biennial basis, the district shall provide by first-class mail to each producer notice that includes information regarding the purpose of the committee, the categories that determine membership on the committee as described in paragraph (1), the schedule for the election of members, and any additional information the

district determines necessary. The notice shall include the deadline for each producer to inform the district that it would like to serve on the committee and the category, as described in subparagraph (A) to (C), inclusive, of paragraph (1), for which it is eligible to serve. An eligible producer that would like to serve on the committee and informs the district shall be included on the election ballot.

(3) The election of committee members shall be conducted by mail ballot not later than 90 days before the second Tuesday in May. Producers shall be invited to witness the counting of ballots. Each producer shall have the right to cast a total number of votes equal to the number of acre-feet of its annual pumping allocation, rounded to the next highest whole number, multiplied by the number of members that may be elected for that production category, as specified in subparagraphs (A) to (C), inclusive, of paragraph (1). Votes may only be cast by the members in their respective production categories for the seats in that category, as specified in subparagraphs (A) to (C), inclusive, of paragraph (1). The members of the committee shall be those candidates receiving the highest vote total in their respective categories. The committee shall select a winner in the event that there is a tie in the vote tally. The results of the election shall be reported on the Internet Web site of the district.

(4) The committee shall hold its first meeting within 30 days of the date the results of the election are announced by the district. The committee shall develop rules for its operation. The committee shall take action by majority vote of its members. Members of the committee shall serve without compensation.

(c) No later than the second Tuesday of April of each year, a district shall consult with the budget advisory committee for the purposes set forth in subdivision (a). The committee shall make recommendations to the board at least 10 days prior to the hearing held pursuant to Section 60306. Committee recommendations shall be included in the documents comprising the agenda packet for that meeting.

(d) A district shall maintain records regarding the recommendations of the budget advisory committee and the final decisions made by the board with regard to those recommendations.

(e) This section shall become inoperative on June 30, 2019, and, as of January 1, 2020, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2020, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 60290 of the Water Code is amended to read:

60290. The district may establish an annual reserve fund in an amount not to exceed ten million dollars (\$10,000,000) commencing with the 2000–01 fiscal year. The maximum allowable reserve fund may be adjusted annually commencing with the 2001–02 fiscal year to reflect percentage increases or decreases in the blended cost of water from district supply sources. Beginning in the 2019–20 fiscal year, a minimum of 80 percent of the reserve shall be for water purchases.

SEC. 3. Section 60336 of the Water Code is amended to read:

60336. (a) Should any operator of a water-producing facility knowingly fail to register his or her water-producing facility or knowingly fail to file the groundwater production statement, or knowingly fail to file and furnish any other reports or statements required by resolution of the board adopted pursuant to Section 60326, the operator shall, in addition to interest as provided in Section 60335, become liable to the district for a penalty of one thousand dollars (\$1,000).

(b) The changes made to this section by the act adding this subdivision shall not apply to any operator of a water-producing facility that is a party to litigation involving a water replenishment district filed before July 1, 2013, until after the litigation is settled or all legal remedies have been exhausted.

SEC. 4. Section 60339 of the Water Code is amended to read:

60339. (a) The superior court of the county in which the major portion of the district lies may issue a temporary restraining order upon the filing by the district with the court of a verified petition or complaint setting forth that the person named therein as defendant is the operator of a water-producing facility which has not been registered with the district or that the defendant is delinquent in the payment of a replenishment assessment. The temporary restraining order shall be returnable to the court on or before 10 days after its issuance.

(b) The court may issue and grant an injunction restraining and prohibiting the named defendant from the operation of any water-producing facility when it is established by the preponderance of the evidence at a hearing that the defendant has failed to register the water-producing facility with the district or that the defendant is delinquent in the payment of a replenishment assessment. The court may provide that the injunction so made and issued shall be stayed for a period not to exceed 10 days to permit the defendant to register the water-producing facility or to pay the delinquent replenishment assessment.

(c) Service of process shall be made by posting a copy of the summons and complaint upon the water-producing facility or the parcel of land upon which the water-producing facility is located and by personal service of summons and complaint upon the named defendant.

(d) The right to proceed for injunctive relief as provided in this section shall be in addition to any other right which may be provided elsewhere in this act or which may be otherwise allowed by law. The procedure provided in Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure regarding injunctions shall be followed except insofar as it may be otherwise provided in this section.

(e) The court shall direct that the district or operator of a water-producing facility be awarded the reasonable attorney's fees and costs relating to a motion seeking injunctive relief under this section whenever the district or operator of a water-producing facility prevails on a petition or complaint.

(f) The changes made to this section by the act adding this subdivision shall not apply to any operator of a water-producing facility that is a party to litigation involving a water replenishment district filed before July 1,

2013, until after the litigation is settled or all legal remedies have been exhausted.

SEC. 5. It is the intent of the Legislature that the amendment of Section 60290 will provide the Water Replenishment District of Southern California with the ability to determine the appropriate use of moneys held in its annual reserve fund. Public records that are kept by the district of expenditures from the annual reserve fund shall help the Legislature determine whether the flexibility provided by this act should be permanently extended beyond the 2019–20 fiscal year.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.